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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,442	10/13/2000	John James Todd	136.004	3672

7590 02/10/2004

Law Office Of Jerome D Jackson
211 North Union Street Suite 100
Alexandria, VA 22314

EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/601,442

Applicant(s)

TODD ET AL.

Examiner

Ivars C. Cintins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 12 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Capdeville et al. (U.S. Patent No. 4,915,884). The reference discloses a method for making a loose particulate material for use in waste water treatment, which method comprises contacting granules of a plastic material (see col. 2, lines 25 and 58-59) with grains entirely of a soluble substance (see col. 4, line 21) at an elevated temperature (see col. 2, line 36; and col. 6, lines 27-28), and subsequently dissolving the soluble substance (see col. 4, lines 23-26) to provide the surfaces of the granules with concavities (see col. 4, line 31) as a habitat for microorganisms effective in waste water treatment (see col. 1, lines 10-11); and this is all that is required by claim 12.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Capdeville et al. in view of WO 96/25367. Capdeville et al. discloses the claimed invention with the exception of the use of sodium chloride as the water soluble third material (claims 13 and 16), the use of sequential treatments to incorporate the second and third materials into the plastic first material (claims 14-20), and the use of sand and the second material (claims 17 and 19). WO 96/25367 teaches using sodium chloride (see page 8, line 19) as a water soluble salt for forming

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concavities in a plastic material (see page 12, line 36 through page 13, line 1); and further teaches the use of sand as a density altering material (see page 6, lines 12-13). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the sodium chloride of the secondary reference for the water soluble mineral salt (e.g. calcium chloride, sodium bicarbonate, etc.) of the primary reference, since this secondary reference sodium chloride is capable of being dissolved to form surface concavities in a plastic material in substantially the same manner as the water soluble mineral salt of the primary reference, to produce substantially the same results. Also, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the sand of this secondary reference for the completely encapsulated density altering material of the primary reference (i.e. element 3 of Fig. 1), since this sand is capable of altering the density of the composite material in substantially the same manner as the adjuvant of this primary reference (see col. 2, lines 18-34), to produce substantially the same results. Furthermore, although the primary reference utilizes the same material as the density altering second material and the soluble substance third material, and therefore incorporates both the second and third materials into the plastic first material in a single step (see col. 6, lines 23-45); upon modification of this primary reference in the manner proposed above (i.e. the use of sand as the second material and sodium chloride as the third material), it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ sequential treatments in order to introduce these two materials into the plastic first material, in order to provide better control over the density and surface area of the final product.

A copy of the Capdeville et al. reference is not being furnished with this Office action because Applicant cited this document in the IDS filed April 20, 2001.

Applicant's arguments filed November 20, 2003 have been noted and carefully considered, but no longer appear to be relevant in view of the new grounds of rejection.

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (571) 272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Blaine Copenheaver, can be reached at (571) 272-1156.

The centralized facsimile number for the USPTO is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
February 7, 2004